IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.1043 (MS) OF 2006

Bhuwan Chandra Tiwari,
S/o Shri Mohan Chandra Tiwari,
R/o Village Khatyari, P.O. Soni,
Tehsil Ranikhet, District-Almora. .....Petitioner.

Versus

1. Uttaranchal Shiksha Evam Pariksha Parishad Ramnagar (Nainital), through its Secretary.
2. The Secretary,
   Uttaranchal Shiksha Evam Pariksha Parishad Ramnagar, Nainital.
3. State of Uttaranchal, through Secretary, Educational Uttaranchal, Dehradun. .....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri S.S. Negi, Advocate for the petitioner and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of mandamus commanding the respondents to revaluate the answer book of the English I and II paper and answer-book of he mathematics I, II & III papers of the petitioner's Intermediate Final Examination, 2006 and in case the petitioner gets good marks in English I and II papers and in mathematics, I, II and III papers thereafter, the petitioner may be declared passed in first division in Intermediate Final Examination, 2006.

Briefly stated, according to the petitioner, he is a resident of Village Khatyari P.O. Soni Tehsil Ranikhet, District

Almora, he had appeared in the Intermediate Final examination with Science group in the year, 2006 as a regular student form Govt. Inter College Deolikhet District Almora conducted by respondents no.2., who allotted the petitioner bearing Roll No. 0058594.

The petitioner appeared in all the papers and answered all the questions to his full satisfaction and thereafter, the result was declared in local daily newspaper in the first week of June, 2006 and marksheet was issued by the Principal G.I.C Deolikhet (Almora) on 08.06.2006. The petitioner succeeded with second division.

The petitioner was in full hope that he will secure first division in the intermediate Final Examination, 2006.

The petitioner moved an application for scrutiny by depositing Rs. 160.00/- by treasury challan No. 19026 dated 16th June, 2006, but the same has not yet been disposed of.

So far as the scrutiny is concerned, the petitioner has submitted that let the scrutiny be made of the answer book of English I & II paper and answer book of mathematics, I, II & III papers of the petitioner's Intermediate Examination.

Sri V.K. Bisht, Sr. Advocate, has submitted that let the petitioner apply for scrutiny and the same shall be done by the Secretary Uttaranchal Shiksha Evan Pariksha/respondents no.1 and 3.

In ***Vaibhav Pandey v. Board of High School and Intermediate Education (1998)2 U.P.L.B.E.C. 1501***, it has been held as under:-

> *"2.The past record of the petitioner indicates that he is an exceptionally brilliant student. In High School examination, the petitioner indicates that he is an exception brilliant student. In High School examination, the petitioner has been awarded 19 marks*

out of 32 in Hindi 3rd papers. The petitioner has been awarded much higher marks in other subjects. The apprehension of the petitioner is that his answer book of Hindia IIIrd paper has not been correctly examined.

3. This writ petition is finally disposed of with the directed that respondent No.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petitioner in Hindi IIIrd paper of High School Examination, 1998 wihtin a period of one month from the date a certified copy of this order is produced before him. On the date on which the answer book of the petitioner is being looked or examined by respondent No.2, the petitioner's guardian may also remain present. If any discrepancy is found in the answer book, it shall be corrected. The roll number which had been allotted to the petitioner is 1064476.

The aforesaid Judgment has also been followed in Trishma Singh vs. U.P. Intermediate Education board Allahabad, 2001 U.P. Local Bodies Cases 2071. Paragraph-7 of the judgment is important which is quoted below:-

"Learned counsel, for the petitioner has placed reliance on the case of Vaibhav Pandey v. Board of High School & Intermediate Education (1988) 2 UPLBEC 1501, in which this Court held as under:

> *This writ petition is finally disposed of with the direction that respondent No.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petitioner in Hindi IIIrd paper of High School Examination, 1998 within a period of one month from the date a certified copy of this order is produced before him. On the date on which the answer book of the petitioner is being looked or examined by respondent No.2, the petitioner's guardian may also remain present. If any discrepancy is found in the*

answer book, it shall be corrected. The roll number which had been allotted to the petitioner is 1064476."

It has further been held by the Allahabad High Court in the case ***Mobeen Ahmad Ansari vs. State of U.P. and others (1999) 1 UPLBEC 603*** as under:

"It is a matter of grant concern that in the recent years there is consideration influx of such writ petitions in this Court has increased. Earlier the Board of High School and Intermediate Education had inspired so much confidence that seldom writ-petition where filed. Filing of writ petition on such a large scale before this Court indicate that there is considerable dissatisfaction among the students and their parent which requires introspection by he Board authorities as well. Although this Court seldom interfere in the revaluation of the marks, but with a view to have grater accountability and transparency there is a need for framing some certain rules to rectify the error, mistakes or defection calculation of the marks."

Thus, the respondent no.2 is directed to get scrutiny of the answer book in accordance with the aforesaid judgments of the Allahabad High Court, where it has been held that there should be transparency of the marks and the petitioner may not be deprived from his legitimate claim.

Respondent no.2 is directed to get the scrutiny done after the petitioner applies for the same on the every same day.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

04.08.2006

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